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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO.

8:13-Cr-

18 U.S.C. § 371

237 + 23 TBM

DUANE CRITHFIELD and
STEPHEN DONALDSON, SR.

INDICTMENT

SEALED

The Grand Jury charges:

COUNT ONE

(Conspiracy to defraud the United States)

A. Introduction

At times material to this Indictment:

1. Defendant DUANE CRITHFIELD, age 65, resided in Tampa, Florida and the Bahamas, and served as an executive for many of the entities described below from 2001 through 2007. Defendant Crithfield promoted himself as being experienced in investment banking, international financial services, and international consulting involving banks, trust companies, and insurance companies.
2. Defendant STEPHEN DONALDSON, age 67, resided in the Tampa Bay area and the Bahamas, and served as the Chairman of Foster & Dunhill from 2001 through 2007. Defendant Donaldson promoted himself as being one of the foremost experts in U.S. compliant structures for offshore asset protection and tax planning.

SEALED

3. Defendants Crithfield and Donaldson founded or otherwise held themselves out to own, operate, or serve in affiliate relationships with the following foreign and domestic entities, among others:

- a. Alliance Holding Company, LTD., which was domiciled in Nevis, West Indies was promoted by the defendants as providing a wide range of international financial services through its subsidiaries and affiliated companies;
- b. Fidelity Insurance Company, LTD., which was domiciled in the island of Anguilla, British West Indies, was promoted by the defendants as being compliant with the U.S. tax code as well as insurance laws and regulations;
- c. Citadel Insurance Company, LTD., which was domiciled in Anguilla, British West Indies was promoted by the defendants to be a life insurance and property-casualty company designed to meet the needs of high net worth U.S. citizens and business owners seeking the advantages of an international insurer;
- d. First Fidelity Trust, LTD., which was domiciled in Nevis was promoted by the defendants to offer international asset protection trusts, international investment opportunities, pre-marital planning, confidentiality, estate transfer planning, and spend thrift provisions for beneficiaries;

- e. Offshore Trust Service was a Florida corporation controlled by defendants Crithfield and Donaldson who held it out to be an independently owned administrative services company that is contracted by Alliance Holding Company as the U.S. agent for First Fidelity Trust and Fidelity Insurance Company clients; and
- f. Foster & Dunhill, LTD., was a Florida corporation controlled by defendants Crithfield and Donaldson who held it out to be an independently owned and widely respected international financial services firm headquartered in Freeport on Grand Bahama Island in the Bahamas.

4. Defendants Crithfield and Donaldson and others, through Foster & Dunhill, Offshore Trust Service, Fidelity Insurance Company ("FIC"), and Citadel Insurance Company ("CIC"), among other entities, promoted, marketed, and implemented a fraudulent offshore tax strategy known as the Business Protection Plan ("BPP").

5. The BPP strategy enabled the defendants' affluent clients to claim business expense deductions based on sham "insurance premium" payments made to offshore entities FIC and CIC in amounts intended to substantially reduce the clients' taxable income for a particular year. The so-called insurance premiums were not based on actual business risks but rather on the client's interest in reducing business income for tax purposes. After obtaining the benefit of a tax deduction on the client's corporate income tax return, the client would later receive approximately 83-85% of the premium back.

6. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States, including the ascertainment, computation, assessment, and collection of federal income taxes.

B. The Conspiratorial Agreement

7. From at least in or about 2001, and continuing thereafter up to and including March 2008, in the Middle District of Florida and elsewhere,

DUANE CRITHFIELD and
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the defendants herein, did knowingly and willfully combine, conspire, confederate and agree together with others known and unknown to the grand jury to defraud the United States out of money and property and by impeding, impairing, obstructing, and defeating, through dishonest and deceitful means, the lawful functions of the Internal Revenue Service of the U.S. Department of the Treasury in the ascertainment, computation, assessment, and collection of federal income taxes.

C. The Manner and Means of the Conspiracy

8. It was part of the conspiracy that defendants Crithfield and Donaldson and others would and did promote and market the BPP strategy both domestically and via international promotional conferences;

9. It was further a part of the conspiracy that defendants Crithfield and Donaldson would and did withhold and conceal from their clients that a prominent law firm withdrew its opinion letter upon learning that the promoters had misrepresented material facts about BPPs;

10. It was further a part of the conspiracy that defendants Crithfield and Donaldson would and did continue to promote, market, and implement the BPP strategy contrary to the limits of a follow-on opinion letter from a different law firm;

11. It was further a part of the conspiracy that defendants Crithfield and Donaldson would and did cause their clients to file false and fraudulent corporate and individual income tax returns which claimed deductions for BPP premiums paid;

12. It was further a part of the conspiracy that defendants Crithfield and Donaldson would and did engage the services of attorneys, certified public accountants, and other professionals as paid advisors to help the defendants promote the BPP scheme;

13. It was further a part of the conspiracy that defendants Crithfield and Donaldson would and did create and cause the creation of an offshore shell company which they used to receive Foster & Dunhill commissions and to pay Foster & Dunhill's paid advisors; and

14. It was further a part of the conspiracy that the defendants and others would and did perform acts and make statements to hide and conceal, and cause to be hidden and concealed, the purposes of, and the acts done in furtherance of, said conspiracy.

D. Overt Acts

15. In furtherance of the conspiracy and to accomplish the objects of the conspiracy, the defendants and other conspirators known and unknown to the grand

jury committed, and caused to be committed, the following Overt Acts, within the Middle District of Florida and elsewhere:

(a) At various times in 2001 and 2002, defendants Crithfield and Donaldson told prospective BPP clients not to file a claim against their BPP insurance policies because they could get a large portion of their premiums back tax-free.

(b) In or about 2003, defendant Donaldson instructed BPP client "J.C." not to file a claim against his BPP insurance policy because filing a claim was not the real purpose of the BPP policy.

(c) On or about August 01, 2003, defendant Crithfield told his attorneys that no claims had been made under any of the approximately 75 BPP Policies that FIC had issued and that FIC did not establish reserves for insurance losses under the BPP Policies.

(d) On or about August 19, 2005, defendant Donaldson promoted the BPP at a Foster & Dunhill-sponsored conference in the Bahamas telling attendees that:

"... the way our clients utilize the business protection plan is this: each quarter as they're doing their estimates, they realize that the dollars that they send to the IRS are going to be gone and the dollars that they send into the business protection plan, assuming no claims, are going to get eighty-five cents on the dollar back and, of course, when I do that myself I would just as soon send it to the insurance company as to send it to the IRS."

(e) On or about January 20, 2006 in Orlando, Florida, defendant Donaldson promoted the BPP to members of an associations of physicians explaining that a self-employed business owner can "retitle" a salary or bonus as a BPP deduction and, a year later, receive 85% of the BPP premium back tax free.

(f) On or about May 08, 2007, defendants Crithfield and Donaldson caused BPP client "A.P." to file a 2006 Form 1120S U.S. Individual Income Tax Return for an S Corporation in which a \$500,000 BPP premium was deducted in arriving at ordinary business income.

(g) On or about September 10, 2007, defendants Crithfield and Donaldson caused BPP client "B.J." to file a 2006 Form 1120S U.S. Individual Income Tax Return for an S Corporation in which a \$60,000 BPP premium was deducted in arriving at ordinary business income.

(h) On or about December 18, 2007, defendants Crithfield and Donaldson caused BPP client "E.W." to file a 2006 Form 1120 U.S. Corporation Income Tax Return in which a \$125,000 BPP premium was deducted in arriving at ordinary business income.

(i) On or about March 29, 2008, defendants Crithfield and Donaldson caused \$105,958.13, or 85% of E.W.'s \$125,000 BPP premium, to be returned to E.W. as reflected in his trust statement.

All in violation of Title 18, United States Code, Section 371.

A TRUE BILL,



Foreperson

ROBERT E. O'NEILL
United States Attorney

By: 

JAY G. TREZEVANT
Assistant United States Attorney

By: 

MATTHEW J. MUELLER
Assistant United States Attorney

By: 

ROBERT A. MOSAKOWSKI
Assistant United States Attorney
Chief, Economic Crimes Section

UNITED STATES DISTRICT COURT

Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

vs.

**DUANE CRITHFIELD and
STEPHEN DONALDSON, SR.**

INDICTMENT

Violations:

18 U.S.C. § 371

A true bill



Foreperson

Filed in open court this 2nd day
of May, 2013.

Clerk

Bail \$
